

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
DECEMBER 8, 2003

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
MICHAEL REIS
STEPHEN RIVERA
JOSEPH MINUTA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. KANE: I'd like to open the December 8 meeting of
the Zoning Board of Appeals of the Town of New Windsor.

APPROVAL OF MINUTES DATED NOVEMBER 10, 2003 &
NOVEMBER 23, 2003

MR. KANE: Motion to accept the minutes of November 10
and November 24?

MR. REIS: So be it.

MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

MR. KANE: I'm going to make a motion to accept the schedule for 2004 that's in front of you, if that's okay. We made the changes from the open dates in the summer to having two meetings during the summer months and then to taking off for October and November, basically the same schedule.

MR. MINUTA: Okay.

MR. KANE: Take motion to accept those.

MR. MINUTA: Accept a motion to accept the schedule for 2004?

MR. KANE: Yes, I will.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

ANDREW COFFEY (03-59)

MR. KANE: Well open first preliminary meeting. Request for 23 ft. front yard setback for existing front deck (Use: E-8 bulk tables) at 233 Spruce Street in an R-4 zone.

Mr. Andrew Coffey appeared before the board for this proposal.

MR. KANE: Just to give you an idea, I'll speak to everybody that's here, for a preliminary hearing, we usually do a preliminary meeting in New Windsor so we can get an idea of what you want to do and you get an idea of what we require from you. A lot of towns hold one public hearing so you walk in cold and you don't know what to expect. So this way, you're able to prepare for the public meeting, all our votes have to be done in a public hearing. Just speak loud enough so the stenographer can hear you, tell us what you want to do.

MR. COFFEY: I was in the process of selling my house and what had happened was there was a violation, the guy had moved into the house so he was allowed to move into the house and we held money in escrow and me and Frank Lisi came out, looked at the deck and it needs some modifications as far as the railing, he wants to keep the deck the same size, the new owner.

MR. KANE: And Mike, the deck extends too far out from the house, it's big?

MR. BABCOCK: Yeah, you're allowed a 6 foot and this is 8 foot by 9, to project into the front setback.

MR. KANE: Did you cut down any trees in the or substantial shrubbery or vegetation rather in the

building of this deck?

MR. COFFEY: No, it was an existing deck.

MR. KANE: It was existing when you got the house?

MR. COFFEY: It's been there for 20 years.

MR. KANE: Create any water hazards that you know of?

MR. COFFEY: No.

MR. KANE: Any complaints formally or informally about the deck?

MR. COFFEY: No.

MR. KANE: Obviously, without the deck there, it would be considered a safety hazard walking out your front door?

MR. COFFEY: Yes.

MR. REIS: Mike, excuse me, does the applicant need a rail or guardrails?

MR. COFFEY: Yes, I'm sorry, you're talking to me?

MR. KANE: Yeah, Michael has said that he will need to come up to all the codes, he's basically here because the deck base is bigger than what's allowed. Guys, have any other questions?

MR. REIS: Accept a motion, Mr. Chairman?

MR. KRIEGER: So that you know cause I live around the corner from that house, it doesn't project any closer to the road than the neighboring houses, it fits in. I know that's one question you didn't ask.

MR. KANE: Thank you. I'll accept a motion.

MR. REIS: Make a motion that we set up Mr. Coffey for his requested variance at 233 Spruce Street.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

STEVE LONGO (03-60)

Mr. Steve Longo appeared before the board for this proposal.

MR. KANE: Request for 19 foot rear yard setback for existing attached pool deck (Use G-5 Bulk Tables) at 34 Melissa Lane in an R-1 zone.

MR. KANE: Tell us what you want to do, sir.

MR. LONGO: What we're trying to do is we're in the process of moving and we need to legalize an existing deck around an aboveground pool that we have, what I found out afterwards rear setback was 50 feet, I believe we only have 34.

MR. KANE: Did you create any water hazards or runoffs with the building of this deck?

MR. LONGO: Not at all.

MR. KANE: Cut down any trees or substantial vegetation?

MR. LONGO: No.

MR. KANE: Is it similar in size to other decks that are in the area?

MR. LONGO: Yes, actually, it's a little smaller than some of the other ones.

MR. KANE: Size and appearance wise?

MR. LONGO: Yes.

MR. KANE: Obviously, the deck and the way your yard is situated you consider the deck to be a safety issue for your pool?

MR. LONGO: Correct.

MR. KANE: You have land that goes up in the back?

MR. LONGO: Right, limits access to the pool, I have a 3 year old daughter so it was obviously very important.

MR. KANE: And even if you're approved for the variance, you would still have to pass any codes that the building department has, you understand that?

MR. LONGO: Absolutely.

MR. KANE: Show you some pictures.

MR. MINUTA: I've got them.

MR. KANE: Gentlemen, do you have any questions?

MR. MINUTA: One quick question, Mike, are there any fencing requirements for this pool?

MR. KANE: Fencing is, as long as there's, New York State requires a 46 inch fence for aboveground, for swimming pools, the above-ground pool is the exception as long as there's 4 foot clearance all the way around the pool, meaning the property is flat or sloped down then your pool wall is the fence. The official rules are 46 inches, most towns go by 48 so that where he comes up right there he might, if he didn't have 4 foot clearance to the, from the pool wall to the hill, he may have had to put a fence on the back.

MR. BABCOCK: The deck will do that.

MR. KANE: The deck covers that, right.

MR. MINUTA: Great. Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Make a motion that we present Steve Longo to a public hearing for requested 19 foot rear yard setback at 34 Melissa Lane.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

NORTH PLANK DEVELOPMENT CO., LLC (03-61)

MR. KANE: Request for interpretation and/or use variance for non-conforming use discontinued for a period of two years or more.

Mr. John Lease appeared before the board for this proposal.

MR. LEAS: I'm John Lease, I bought the old Pete and Dolly's Tavern and I'd like to put it back to what it was which was a tavern and an apartment upstairs. I brought a survey and some pictures, would that be helpful?

MR. KANE: Yeah, pictures are always good.

MR. KANE: You guys are all familiar with this, right?

MR. REIS: Right.

MR. KANE: That's basically what you want to do, just bring it back to a tavern?

MR. LEASE: Yeah, I'd like to redo the outside, redo the windows, the inside layout is okay, just redo the plumbing and the electric and put it back to what it had been.

MR. KANE: Two years if it stops?

MR. BABCOCK: Yes, it's a non-conforming use and it can remain there indefinitely but it cannot, if it ceases for a period of two years, it has to have a finding by the ZBA to be re-established or changed to another non-conforming use and as you can see on the survey, the lots have small, as far as any uses in a PI zone, I think the requirements are 80,000 square feet, I don't know what the size is but it's nowhere near that, maybe the board remembers there was an applicant in for this

last time and there was some problems with title.

MR. KANE: With the title from passing through the family, if I remember it was two years ago they were in to talk about this too.

MR. BABCOCK: December 9 of 2002 according to this, apparently, that's been straightened out, Mr. Lease now owns it.

MR. KANE: If they came in before the board but didn't follow through on anything, does that, and there was some level discussion going on, does that help them in any manner?

MR. KRIEGER: No, it doesn't hurt them, it's meaningless, it's irrelevant.

MR. REIS: Intend to keep the footprint as it is?

MR. LEASE: Yes.

MR. MINUTA: And the use?

MR. LEASE: Tavern on the first floor and apartment upstairs.

MR. MINUTA: We're going to have enough parking?

MR. LEASE: Yeah, that I got a little bit more space, that garage collapsed in the back so I got rid of it, it's not there anymore.

MR. REIS: Michael, in re-establishing a pre-existing use, does he have to take into consideration the parking or lack of, is that going to be an issue?

MR. BABCOCK: Well--

MR. KANE: If we continue his pre-existing use, I don't

know if anything comes up, I mean, we can add some things.

MR. BABCOCK: Normally, no, if this didn't discontinue, they would be in business and they'd be in business today with the exact same way it is today.

MR. KANE: John, what you'll have to do is that if these guys approve you for an interpretation which we have to do at a public hearing and if that interpretation comes out as negative, then you would proceed for a use variance. My best advice on that is to get some legal representation on that and find out what that's about because you have to be able to prove that a number of things right there so you would need to be ready for that at the public hearing too so I want to make sure you know what you're getting involved with just in case it doesn't come out as a positive interpretation.

MR. LEASE: Right.

MR. KANE: And Mike mentioned you're keeping the same footprint basically bring everything up to code in the building.

MR. LEASE: Yes.

MR. KANE: That's about all I can think of and definitely check out the use end of it so that you can attack that if you get a negative reaction. Do you guys have any questions? Anything you'd like to see at this point?

MR. MINUTA: Just a clarification as why was it discontinued, this hasn't been vacant or excuse me, this has been vacant for a couple years?

MR. KANE: If I remember the whole story, there was some deaths in the family and then there was a problem

with I think inheritance on who exactly owned all of the rights to the building and there was some discussion on that because they were in front of the board a few years ago, if you remember correctly to discuss that.

MR. KRIEGER: A year ago.

MR. KANE: One year so basically it's been going back and forth and I guess that's been settled now as far as the legal issue and they're back in. I don't remember honestly when it was active as a tavern, that I'm not sure.

MR. MINUTA: Okay.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we recommend North Plank Development for a public hearing for their interpretation and/or use variance.

MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

JILL TURNER (03-56)

MR. KANE: Request for 17 feet rear yard setback for existing rear deck (Use G-8) at 3045 Route 9W in an R-4 zone.

Mr. Jill Turner appeared before the board for this proposal.

MR. KANE: Tell us again exactly what you want to do.

MS. TURNER: Apparently, when the deck was put on, the owner at that time either there wasn't a requirement or he just ignored the requirement. He never got a building permit and the deck was put on not within the correct footage from the back of the property line. So now I bought that house in 1988 and just recently sold it this past August and when it was sold, they found this discrepancy and so part of the closing requirement the new owner purchased the house, has moved in but the agreement was that I would take care of the variance and rectify the whole situation that the previous owner had created.

MR. KANE: So you purchased the house in 1988?

MS. TURNER: Yes.

MR. KANE: Do you have any idea how old the deck is?

MS. TURNER: It was there when I bought it.

MR. KANE: Michael, do we have any record and a permit or application or anything for the deck? While he's looking for that, I'll ask a couple other questions, have to ask them for the record, but any cutting down of trees or substantial vegetation in the building of the deck?

MS. TURNER: No.

MR. KANE: Create water hazards or runoffs?

MS. TURNER: No.

MR. KANE: Any complaints formally or informally about the deck?

MS. TURNER: No.

MR. KANE: Deck going across any easements in your yard?

MS. TURNER: No.

MR. KANE: You guys have any questions? Is it similar in size and appearance to other decks in the neighborhood?

MS. TURNER: I guess so, I mean, it's a very small deck.

MR. KRIEGER: Similar?

MS. TURNER: Yes.

MR. KANE: It's not overly large? It's not an eyesore and again you've got no complaints about it?

MS. TURNER: No.

MR. REIS: How many letters went out?

MS. MASON: On the 24th of November, 46 envelopes were mailed out containing the notice of public hearing and I had no response.

MR. KANE: Okay, at this point, Mike, any permits or

anything on that deck?

MR. BABCOCK: No, just that it indicates there is no permit.

MR. KANE: I'll open it up to the public, ask if there's anything anybody wants to say.

MR. PALAZZO: Joe Palazzo. That decks been there at least since '78 so I have no problems with it.

MR. KANE: You have no problems at all and your address, sir?

MR. PALAZZO: Right across from here, our fence lines were back here, my back yard goes to here.

MR. KANE: No problem?

MR. PALAZZO: No problem.

MR. KRIEGER: And the address is?

MR. PALAZZO: 21 St. Joseph's Place.

MR. KANE: Anyone else? Seeing that there's no one else, we'll close that portion.

MS. EVANS: Virginia Evans, 1 Valley View Drive, my property in the back abuts the side of theirs, as long as the new owners don't want to enlarge the deck that they have now.

MR. KANE: That right now is not an application, they would have to go for a permit. The deck is existing and it's just being approved as is with no approval to make any additions whatsoever.

MS. EVANS: That's all, otherwise it would be a little incongruous with the room they have.

MR. KANE: They'd have to require a building permit and meet the standards.

MS. EVANS: Just wanted to hear him say it, hear you say it. Thank you.

MR. KANE: So you what, you want to say that you're not opposed as long as nobody is going to expand the size of the deck?

MS. EVANS: Correct.

MR. KANE: So we'll put that in the record. Okay, all right, we'll close this portion of the public hearing. Gentlemen, any other questions?

MR. REIS: No, sir. Accept a motion?

MR. KANE: Yes.

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MS. EVANS: Pardon me. Is it possible, I think Jill is going to try and tell me the name of the new owners that bought this property from Jill Turner.

MS. TURNER: Yes, I have it written down, I'll put it on a piece of paper for you.

MS. EVANS: She wasn't sure, I thought maybe she would know since it would be on the--no, it wouldn't be on the application, it's your application, I understand, thank you.

MR. KANE: You're welcome, ma'am. I'll accept a motion.

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MR. MINUTA: Accept a motion that we grant Jill Turner her request for 17 foot rear yard setback for the existing rear deck at 3045 Route 9W.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

MARK GOULET (03-53)

Mr. and Mrs. Mark Goulet appeared before the board for this proposal.

MR. KANE: Request for 21 ft. 3 inch rear yard setback for proposed addition (Use G-8) at 19 Hill View Road in an R-4 zone.

MR. KANE: Say the same thing as in the preliminary hearing, do you want to tell us what you want to do?

MR. GOULET: We'd like to build a 15 by 17 foot addition to the back of our home which would be adjoined to our deck matching siding and windows and same color, the same as is on the house.

MR. KANE: The reason you want to add the addition?

MR. GOULET: We need the space desperately, it's a small home and it's what we wanted for a long time so--

MR. KANE: With the addition will the home be similar in size to the other homes in the neighborhood?

MR. GOULET: Yes.

MR. KANE: Will you be cutting down any trees or substantial vegetation with the building of the addition?

MR. GOULET: No.

MR. KANE: Creating any water hazards on runoffs?

MR. GOULET: No.

MR. KANE: Any easement running through where the addition is?

MR. GOULET: No.

MR. KANE: I'll ask you how many letters we mailed out?

MS. MASON: On the 24th of November, I mailed out 25 addressed envelopes containing the notice of public hearing and I had one response which we have here for the record.

MR. KANE: And at this point, one minute I'll read that response for the record. I'll open it up to the public and see if there's anybody in the public for this particular meeting? And seeing as there's not, I'll close is public and read you a portion of this letter. It's from a Mark G. Carey, 25 Beaver Brook Road, lives behind you. Basically, he's unable to make it but he's asking us to deny the application for a number of problems that actually have nothing to do with the board that has to do with wood piles and some kind of ongoing property line dispute. Do you know?

MR. GOULET: There's no dispute.

MR. KANE: This really has no bearing as far as we're concern with this right here, but it is something you should try to clear up. The shed that you have in the back corner of the property, has that been there for quite a while?

MR. GOULET: Yes, very long time.

MR. KANE: Do you have any idea how long it's been there?

MR. GOULET: Well, my shed was up when, in '78, but it was a metal shed and it was destroyed in a wind storm and we replaced that same foundation.

MR. KANE: Do you know if there was any permit for that original shed?

MR. GOULET: I don't think so, it's a long time ago, around 1978, I believe.

MR. KANE: Since there was no public notice on anything with the shed, we're unable to clear that up at this time, that's something that he would have to come back to in the future, would I be correct on that, Andy?

MR. KRIEGER: Yes, you would.

MR. KANE: From my reading and you can read that yourself in that letter at some point you're probably going to get a hard time over the shed and we can't clear it up here because it has to be in the public notice. So normally, if we see something that's there in the preliminary hearing if we had known, we would have added it at that time or asked you if you wanted to add that. So I would say from the tone of this gentleman's letter, that's something that he's probably going to pursue down the line. Actually, unless you move the shed, you'll be back here to get a variance for the shed unless you move it so that it complies.

MR. GOULET: It's impossible to move, obviously.

MR. KANE: You would need to come back, it's nothing that's possible for us to legally add at this point.

MR. GOULET: Anything to do with the addition?

MR. KANE: Absolutely nothing, that's something else down the line, I want to let you know about that.

MR. GOULET: That's no problem. We'll get a variance for that.

MR. KANE: And I just wanted to cover the base, there's no way we can add that and get that into the record. Getting back to the business at hand, any questions on

the addition?

MR. KRIEGER: Why can't you just build the addition within the area that the law requires?

MR. GOULET: Well because of the setbacks--

MR. BABCOCK: Mr. Chairman, maybe I can help him out. His house now is 33.1 feet off the property line and today's law requires 40 feet.

MR. KANE: So you couldn't add anything without being in front of the board?

MR. BABCOCK: That's correct, no matter what size addition.

MR. GOULET: Even on the side of the property because I have a lot of property still that 40 foot law which I don't know when the law was enacted, it couldn't have been in '75, in fact, all the homes along there are less than 40 feet, the back yard on that street.

MR. BABCOCK: He would be able to add an addition of this size to the end of his house without needing a variance. The problem with that is is that the access to this addition is through the back of his house so it doesn't suit him to put it on the side of the house, he needs it in the rear of the house.

MR. KRIEGER: And he couldn't put an addition in the rear without some kind of variance?

MR. BABCOCK: That's correct.

MR. KANE: Any other questions?

MR. REIS: You know where the easement is?

MR. KANE: Yes.

MR. RIVERA: Are the property lines clearly outlined?

MR. GOULET: Yes, I just had it surveyed and this gentleman had his surveyed, we know what the lot line is and the shed is on my property.

MR. KANE: Again, a lot of that has nothing to do with us tonight but I wanted to get everything on the record and acknowledge his letter and his concerns and just basically answer as best as I can and Mike, you're aware of it.

MRS. GOULET: His letter will have no bearing on this decision?

MR. KANE: No, not from what you wrote here, he's one out of 25 letters went out, we got one response, so as far as that then that has a bearing that one person was against it.

MR. KRIEGER: Perhaps it should be explained that legally speaking, this board does not decide based on a vote, it's not whoever, you know, the majority of the people that show up they're charged with the requirement of using their own discretion and their own judgment, so while they'll consider anything said in opposition, they may find what is said to be not persuasive, if one person speaks what they say and is persuasive, then the members will take that into account. If you have a number of people who speak and none of them say anything that a member here finds persuasive, then it doesn't matter how many there are.

MR. KANE: Answer your questions?

MR. GOULET: Yes.

MR. KANE: Any other questions?

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MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that he we pass the Goulet's request for their requested variance at 19 Hill View Road.

MR. RIVERA: That's a 21 foot three inch, second the motion.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

UNITARIAN SOCIETY OF ORANGE COUNTY (03-54)

MR. KANE: Request for 60 square feet variance for proposed freestanding sign (Use: 48-18-H-2-A-2) at 9 Vance Road in an R-1 zone.

Ms. Linda Carhart appeared before the board for this proposal.

MR. KANE: Tell us what you want to do.

MS. CARHART: Well, we propose to erect a sign that will let the public be aware of the building that we have that's out of sight of Route 207, so that our congregation's events can be publicized for the general public.

MR. KANE: This sign itself is illuminated but not flashing?

MS. CARHART: Well, not yet, not even illuminated at this time, it will be.

MR. KANE: Do you plan to illuminate it?

MS. CARHART: Perhaps in the future.

MR. KRIEGER: Interior or exterior?

MS. CARHART: The inside of this part.

MR. KRIEGER: Even though then it won't be flashing?

MS. CARHART: No.

MR. KANE: So if this is approved, you agree that there would be no flashing of the lights, no internal flashing?

MS. CARHART: That's fine.

MR. REIS: Has it been determined exactly where it's going to be?

MS. CARHART: Yes.

MR. REIS: As far as feet back off the road?

MS. CARHART: That would have been a good thing to do, go and measure and I did not do that, but it is definitely down the bank and up, up the hill, so it's definitely more than ten feet.

MR. KANE: I'm noticing on the application says ten feet so you're ten foot or more from the road?

MS. CARHART: Yes.

MR. KANE: And you don't feel that the sign would inhibit any visual impairment to traffic?

MS. CARHART: No, not at all, that's why we need a variance so it will be further away.

MR. KRIEGER: It will be seen but it won't interfere with the safe operation of motor vehicles on the adjacent roadway?

MS. CARHART: Correct.

MR. KANE: The height of the sign for the record is 9 feet?

MS. CARHART: Correct.

MR. KANE: And you're three foot eight inches off the ground?

MS. CARHART: That's right.

MR. KANE: Basically because of the double sided sign that's why we're over on square footage.

MR. BABCOCK: Well, that and that they're in a residential R-1 zone which only allows them to have a 20 square foot sign, if they were in an NC zone, they'd be allowed a 64 square foot sign.

MR. KANE: So it's really not that substantial.

MS. CARHART: Exactly.

MR. KANE: Myra, how many letters went out?

MS. MASON: On the 24th day of November, I mailed out 28 envelopes, I've had no responses.

MR. KANE: I'll open it up to the public, ask if there's anybody in the audience for this particular hearing? Seeing as there's not, we'll close the public hearing and bring it back to the board.

MR. KRIEGER: You say that the building that you have is not visible from the road?

MS. CARHART: Correct, except at night you can see lights, parking lights, that's about it.

MR. KRIEGER: But if there were a sign on the building, you couldn't see that?

MS. CARHART: No.

MR. KANE: Not going to be creating water hazards or runoffs with the building of the sign?

MS. CARHART: No.

MR. KANE: Cutting down any trees, no easements where the sign is going to go?

MS. CARHART: No easements, we did clear, it's a wooded area, so we did a little clearing, yes.

MR. KRIEGER: And it will be off the right-of-way?

MS. CARHART: Yes.

MR. MINUTA: We have clearance from the intersection, viewing clearance?

MR. BABCOCK: Yes, gentlemen, there's a house between them and the intersection of Vance Road.

MR. MINUTA: Well, there's the visual aspect of that, okay.

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will, Steve.

MR. RIVERA: I make a motion that we grant the Unitarian Society of Orange County their requested 60 square foot variance for the proposed freestanding sign at 9 Vance Road.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

CLARA ZGRODEK (03-57)

MR. KANE: Request for 14 ft. rear yard setback for proposed sun room (Use: 8-G) at 13 Rocky Lane in an R-4 zone.

Ms. Jeanne Zgrodek and Ms. Clara Zgrodek appeared before the board for this proposal.

MR. KANE: Tell us what you want to do.

MS. J. ZGRODEK: We want to make a sun room in our deck.

MR. KANE: How big is the sun room going to be?

MS. J. ZGRODEK: It's right here.

MR. BABCOCK: 12 by 16.

MR. KANE: And that specific size is similar to other deck sizes that are in the area?

MS. J. ZGRODEK: Yes.

MR. KANE: Going to be cutting down any trees or substantial vegetation in the building of this sun room?

MS. J. ZGRODEK: No.

MR. KANE: Create any water hazards or runoffs?

MS. J. ZGRODEK: No.

MR. KANE: Is there any easements in that particular area?

MS. J. ZGRODEK: No.

MR. REIS: Jeanne, the sun room, is it the same size as the existing deck?

MS. J. ZGRODEK: No.

MR. REIS: Larger?

MS. J. ZGRODEK: Yeah, I'm not sure how big the deck is.

MR. KANE: But a 12 by 16 that's not overly big for decks in that particular area?

MR. REIS: Very similar to what?

MR. KANE: And I can attest because I live right behind.

MS. J. ZGRODEK: We have one neighbor that can really see it cause the convent is on one side and McQuade is on the other side, it's all woods.

MR. KANE: And it's very difficult to see from my house, the deck was existing though. The deck that's currently there is existing.

MR. BABCOCK: Well, I'm not, I don't think legally it was there when the house was built, they have a real, real small deck, to maintain the 40 foot setback, I don't know whether you're the original owner of the house or not.

MS. J. ZGRODEK: Yes.

MR. BABCOCK: On the original survey the deck is very small.

MS. J. ZGRODEK: Yes.

MR. BABCOCK: And the purpose was to maintain the 40

foot.

MS. J. ZGRODEK: Really wasn't a deck, just--

MR. KANE: Just a landing.

MR. BABCOCK: I don't think you can even put a chair on it.

MR. KANE: Without anything there, it would be a safety hazard coming out the back door?

MS. J. ZGRODEK: Oh, yeah.

MR. KANE: Do you have any other questions right now?

MR. REIS: No, sir.

MR. BABCOCK: This would make the existing deck which he's saying existing plus the sun room all legal.

MR. KANE: Correct. Myra, how many mailings?

MS. MASON: On the 24th of November, I mailed out 13 envelopes and I have had no response.

MR. KANE: At this point, I'll ask John if he has any interest in this hearing? So I'll open and close the public portion of this hearing and come back to the board.

MR. RIVERA: Accept a motion?

MR. KANE: Let me just make sure we covered every base here. Yes, I will accept a motion.

MR. RIVERA: Make a motion we move to grant Clara Zgrodek the requested rear yard setback for proposed sun room request for the 14 foot rear at 13 Rocky Lane.

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MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

December 8, 2003

JOHN & ELLEN ANTONELLI (03-56)

MR. KANE: Request for 26 ft. 4 inch rear yard setback for existing attached rear deck (Use: 8-G) and interpretation and/or use variance for existing two-family house in R-4 zone and 33,457 square foot minimum lot area and 12% developmental coverage all located at 43 Hillside Drive in an R-4 zone.

Mr. John Antonelli appeared before the board for this proposal.

MR. KANE: Tell us what's going on, John, same thing you did in the preliminary hearing.

MR. ANTONELLI: Okay, I want to make sure the house gets turned back into a two-family house which I thought I bought a two-family house and I have a letter I'd like to present to the board from the original owner's daughter stating that it was put in in 1961, the apartment, and we're taxed as two family from the county and from the town.

MR. KANE: And the letter, be noted that we do have that letter from Mary Ann Sanders. We used to reside at 43 Hillside Avenue, New Windsor, I lived there with my parents until February 4, 1961 which at that time my father and husband built an apartment in the basement, we then moved and paid rent until my parents sold the house and we moved in September of 1971.

MR. KRIEGER: Is that when you bought it?

MR. ANTONELLI: Right, yeah, it was in '71, I'm not sure what the exact date was.

MR. KRIEGER: From that person?

MR. ANTONELLI: Right, from her father and mother, I believe.

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MR. KANE: And you have been paying taxes as a two-family home since then, John?

MR. ANTONELLI: Right.

MR. KRIEGER: And used as a two-family home continuously without any interruptions?

MR. ANTONELLI: Right.

MR. KANE: Has there been any complaints formally or informally about the use of it as a two-family home?

MR. ANTONELLI: Not that I know of.

MR. REIS: What brings you to the board?

MR. ANTONELLI: When I went to sell it last February, I came up here and it was on the tax card that it was an illegal 220, somebody wrote it down in pencil, I don't know who did it, they didn't initial or sign it and then so now I went through the whole process, so now I got an engineer and brought it all up to today's fire codes.

MR. REIS: Is it back on the market?

MR. ANTONELLI: I didn't put it back on the market, no, I don't have it on the market right now, but I want to take care of it because if they don't sell it, sooner or later my kids are going to have to do it and it's going to be worse and my daughter told me she wants to buy it next year so we'll see what happens.

MR. KANE: So I think the first thing we want to do is Myra, how many mailings did we have?

MS. MASON: On the 24th of November, I mailed out 31 envelopes. I had no responses.

MR. KANE: And at this point, I'll open and close the public portion of the hearing, seeing as there's nobody here in the audience and bring it back to the board. I think the first thing we need to do is decide whether we need an interpretation that this is a pre-existing two-family home and get that on the record and/or if not, then go to a use hearing. So we would, if you guys feel comfortable, let's take care of the interpretation now and then we can take care of the numbers later so we need a motion.

MR. REIS: Based on our information received, the fact that the two family has been utilized as such since '61, I believe, I make motion that we interpret this to be an existing two-family house in an R-4 zone.

MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

MR. KANE: That takes care of that. So we don't need to do anything with the use, so we come down to the 26 foot 4 inch rear yard setback for the attached rear deck. How long has the deck been there, John?

MR. ANTONELLI: It was a porch maybe 20, 25 years, something like that it's been over the years, I changed the wood, re-did it a little bit, we made it a little bit bigger.

MR. KANE: Was it existing before you bought the home?

MR. ANTONELLI: Yes.

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MR. KANE: Permit on record on that deck?

MR. BABCOCK: No.

MR. KANE: Since it was a pre-existing home, two-family home, the developmental coverage and the area that would fall in there.

MR. BABCOCK: Well, we figured since he's here tonight, we'll cover all the bases. If you don't feel that it's necessary, fine with us. The developmental coverage came into play because of the deck, Mr. Antonelli mentioned that he didn't, that he did increase the size of the deck so we figured that it would be best just to put it in.

MR. KANE: I agree, I have no problem with that. Gentlemen? Do you have any feelings?

MR. MINUTA: Only question I have on that is actually 2, number 1, there's enough parking and number 2, there's enough green area.

MR. ANTONELLI: Well, we have two driveways, there's plenty of parking, I can get probably about 12, 14 cars in there and I would say roughly I don't know how you'd want to say about the green area, it's on the side of the house.

MR. KANE: Just describe it as best you can.

MR. ANTONELLI: Probably at least 14, 15 foot from their property line and my house and behind me is Central Hudson's property, so it's all woods there. The other side of my other driveway is I have a field there and it's all Central Hudson's property.

MR. KANE: And your front and your property from the driveway to the, through the front of the house you have all grass right there?

MR. ANTONELLI: Right.

MR. KANE: Grass, trees and shrubberies running down the side of the house and you have a back yard?

MR. ANTONELLI: Yes, I don't have any shrubbery on that side.

MR. KANE: But you have grass and it's substantial enough greenery, does it fit into the neighborhood right now?

MR. ANTONELLI: Yes.

MR. KRIEGER: So if I understand correctly, you're bordered by Central Hudson in the back and one side and neighbor on the other side?

MR. ANTONELLI: Right.

MR. KANE: The map answers your question on parking, Joe?

MR. MINUTA: Yes.

MR. KANE: Any other questions, gentlemen?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we pass John and Ellen Antonelli's requested variance at 423 Hillside Drive for the rear yard setback for the minimum lot coverage and developmental coverage.

MR. MINUTA: Second it.

ROLL CALL

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MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn?


MR. REIS: So moved.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

Respectfully Submitted By:



Frances Roth
Stenographer

1/16/09